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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

TERRY JAMES JOHNSTON

Debtor.

Case No. BK-S-20-12461-BTB

Chapter 7

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Kari Johnston (“Appellant”) appeals under 28 U.S.C. § 158(a) and Rule 8001 of the Federal Rules of Bankruptcy Procedure from the *Order Regarding Motion to Extend Bidding Deadlines and Auction Date Due to Failure to Timely Provide Due Diligence as Required by the Order Entered on May 10, 2021, as ECF No. 213* [ECF No. 266] entered in this bankruptcy proceeding on the 29th day of June, 2021, a copy of which is attached hereto as **Exhibit “1.”**

The names of all parties to the order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

APPELLANT:

Kari Johnston
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APPELLEES:

TeDan Surgical Innovations, Inc.
CANDACE C. CARLYON, ESQ. (SBN 2666)
DAWN M. CICA, ESQ. (SBN 4565)
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Troy Fox, Chapter 7 Trustee
JASON A. IMES, ESQ. (SBN 7030)
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If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant elects to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

DATED this 13th day of July, 2021.

GARMAN TURNER GORDON LLP

By: /s/ Mark M. Weisenmiller
TALITHA GRAY KOZLOWSKI, ESQ.
MARK M. WEISENMILLER, ESQ.
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
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EXHIBIT 1

EXHIBIT 1

Bruce T Beesley

Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
June 29, 2021

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

TERRY JAMES JOHNSTON,

Debtor.

Case No. BK-S-20-12461-BTB

Chapter 7

Hearing Date: June 10, 2021
Hearing Time: 10:00 a.m.

**ORDER REGARDING MOTION TO EXTEND BIDDING DEADLINES AND
AUCTION DATE DUE TO FAILURE TO TIMELY PROVIDE DUE DILIGENCE AS
REQUIRED BY THE ORDER ENTERED ON MAY 10, 2021, AS ECF NO. 213**

Kari Johnston ("Ms. Johnston"), by and through her counsel, the law firm of Garman Turner Gordon LLP, filed her *Motion to Extend Bidding Deadlines and Auction Date Due to Failure to Timely Provide Due Diligence as Required by the Order Entered on May 10, 2021, as ECF No. 213* [ECF No. 228] ("Motion").¹

¹ All capitalized, undefined terms shall have the meanings ascribed to them in the *Order (I) Approving Procedures for Sale of Estate's Interest in TeDan Surgical Innovations, Inc.; (II) Scheduling Sale Hearing; (III) Authorizing Sale of Assets Free and Clear of Liens, Interests, Claims and Encumbrances; and (IV) Waiving Stay Under Bankruptcy*

1 The Motion came on for hearing before the above-captioned Court on June 10, 2021, at
 2 10:00 a.m. (the “Hearing”). Ms. Johnston appeared at the Hearing by and through her counsel,
 3 Talitha Gray Kozlowski, Esq. of the law firm of Garman Turner Gordon LLP, Troy Fox, the
 4 Chapter 7 trustee (the “Trustee”) appeared by and through his counsel, Jason A. Imes, Esq. of the
 5 law firm Schwartzer & McPherson Law Firm, and TeDan Surgical Innovations, Inc. (“TeDan”)
 6 appeared through its counsel, Candace C. Carlyon, Esq. of the law firm Carlyon Cica, Chtd. The
 7 Court considered the Motion, the supporting declaration of Talitha Gray Kozlowski, Esq. [ECF
 8 No. 231], *TeDan Surgical Innovations, Inc.’s Opposition to Kari Johnston’s Motion to Extend*
 9 *Bidding Deadlines and Auction Date Due to Failure to Timely Provide Due as Required by the*
 10 *Order Entered on May 10, 2021, as ECF No. 213 (Docket No. 228)* [ECF No. 247], and the
 11 supporting declarations [ECF Nos. 248, 249 and 250], the *Trustee’s Response to Motion to Extend*
 12 *Bidding Deadlines and Auction Date Due to Failure to Timely Provide Due Diligence* [ECF No.
 13 251]. The Court heard and considered the argument of counsel at the Hearing, including TeDan’s
 14 argument that if the bid and Auction dates are extended as requested in the Motion, TeDan should
 15 not be required to participate in the Auction and instead should be entitled to its thirty day right of
 16 first refusal provided in TeDan’s Buy-Sell Agreement.

17 Proper notice having been given, the Court placed its findings of fact and conclusions of
 18 law on the record at the Hearing including: (i) its finding that there is good cause to extend the bid
 19 and Auction deadlines; and (ii) its conclusion that TeDan’s owners may be relieved of their
 20 obligation under the Sale Procedures Order to participate in the Auction and may instead exercise
 21 its thirty day right of first refusal under the Buy-Sell Agreement. These and the Court’s additional
 22 findings and conclusions placed on the record at the Hearing are incorporated herein pursuant to
 23 Fed. R. Civ. P. 52, as applicable pursuant to Fed. R. Bankr. P. 7052 and 9014. After due
 24 deliberation and good and sufficient cause appearing therefor;

25 **IT IS ORDERED THAT** the Bid Deadline is extended from July 7, 2021 to August 6,
 26 2021, at 4:00 p.m. (Pacific Time).

27 _____
 28 *Rule 6004(H)* [ECF No. 213].

1 **IT IS FURTHER ORDERED THAT** that the Auction previously scheduled for July 21,
2 2021, is continued to August 20, 2021, at 10:00 a.m. (Pacific Time), via Zoom (or other video
3 conferencing service).

4 **IT IS FURTHER ORDERED THAT** the Sale Hearing previously scheduled for July 27,
5 2021, at 2:00 p.m., is continued to August 25, 2021, at 10:00 a.m. (Pacific Time).

6 **IT IS FURTHER ORDERED THAT** the following agreement reached by the Trustee
7 and TeDan after the Hearing is approved: the Trustee will provide notice of the Auction results to
8 all bidders (including TeDan) by 5:00 p.m. (Pacific Time) on August 24, 2021, and should TeDan's
9 owners choose to exercise their right of first refusal pursuant to TeDan's Buy Sell Agreement, they
10 shall provide notice to the Trustee that they will match the high bid by no later than 9:00 a.m.
11 (Pacific Time) on August 25, 2021.

12 **IT IS SO ORDERED.**

13 Prepared and Submitted:

14 GARMAN TURNER GORDON LLP

15 By: /s/ Talitha Gray Kozlowski

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20 *Counsel for Kari Johnston*

21 Approved by:

22 CARLYON CICA CHTD.

23 By: /s/ Candace C. Carlyon

24 CANDACE C. CARLYON, ESQ.
25 DAWN M. CICA, ESQ.
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28 *Counsel for TeDan Surgical Innovations, Inc*

Approved by:

SCHWARTZER & MCPHERSON LAW FIRM

By: /s/ Jason Imes

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Counsel for Troy S. Fox, Chapter 7 Trustee

LR 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

- ☐ The court waived the requirement of approval under LR 9021(b)(1).
- ☐ No party appeared at the hearing or filed an objection to the motion.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated.
- ☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objection to the form or content of the order.

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